

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALTON MCDONALD, on behalf of his minor
children S.M. and D.M.,

Plaintiff,

v.

CHRISTINE O. GREGOIRE, Governor of the
State of Washington; DR. TERRY
BERGESON, Superintendent of Public
Instructions; JAMES F. SHOEMAKE,
Superintendent Tacoma School District #10,

Defendants.

Case No. C06-5126 RJB

**ORDER GRANTING PLAINTIFF'S
MOTION FOR VOLUNTARY
DISMISSAL OF ACTION**

This matter comes before the Court regarding Plaintiff Alton McDonald's Motion for Voluntary Dismissal of Action Without Prejudice. Dkt. 24. The Court has considered the pleadings filed in this matter and the record herein.

FACTUAL AND PROCEDURAL HISTORY

This dispute arose from the State of Washington's requirement that high school students pass the Washington Assessment of Student Learning (WASL) exam prior to graduation. On March 10, 2006, Plaintiff McDonald filed a Complaint in federal court, alleging that the WASL exam unfairly discriminates against low income and minority students, and is therefore unconstitutional pursuant to Title VI of the 1964 Civil Rights Act as amended, as well as other sections of the United States Constitution. Dkt. 1(1) at 9. Plaintiff requested (1) a declaratory judgement that Defendants have

1 violated Title VI of the 1964 Civil Rights Act and/or other rights guaranteed by the United States
2 Constitution, (2) an injunction preventing Defendants from further administering the WASL, (3) an
3 order requiring Defendants to provide "necessary funding and effective curriculum" in order to train
4 Plaintiff's son to take the WASL exam, and (4) damages in the amount of \$250,000.00 for further
5 remedial training and emotional distress. *Id.* at 9-10. On March 30, 2006, Defendants Gregoire and
6 Bergeson filed an Answer, denying all allegations. Dkt. 17. On April 28, 2006, Defendant Shoemake
7 filed an Answer, denying all allegations. Dkt. 23.

8 Plaintiff McDonald filed this action as a *pro se* litigant on behalf of his two minor children
9 without retaining a lawyer. Moreover, Plaintiff McDonald's two minor children do not have a
10 *Guardian ad Litem* in this matter. As explained in the Court's recent Order (Dkt. 21), both of these
11 conditions must be remedied before this action can proceed. If Plaintiff McDonald also intends to sue
12 on his own behalf, that is not made clear in his pleadings.

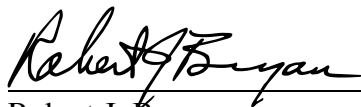
13 On May 17, 2006, Plaintiff McDonald filed a motion requesting dismissal of this action
14 without prejudice pursuant to Fed. R. Civ. P. 41(a)(2). Dkt. 24. To date, Defendants have filed
15 Answers to Plaintiff's Complaint, but have not asserted any counterclaims. Dkts. 17 & 23. A review
16 of the file by the Court indicates that dismissal of this action, pursuant to Fed. R. Civ. P. 41(a)(2), is
17 appropriate at this time.

18 ORDER

19 Therefore, it is hereby

20 **ORDERED** that Plaintiff Alton McDonald's Motion for Voluntary Dismissal of Action
21 Without Prejudice (Dkt. 24) is **GRANTED**, and this case is hereby **DISMISSED** without prejudice.
22 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of record
23 and to any party appearing pro se at said party's last known address.

24 DATED this 23rd day of May, 2006.

25
26 

27 Robert J. Bryan
28 United States District Judge